

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

CLEOPATRA THOMPSON,

Plaintiff,

vs.

Case No. \_\_\_\_\_

L.C. Case No. 21-115461-NO

NESTLE WATERS NORTH AMERICA,  
INC., a foreign corporation,  
SAM'S EAST, INC., a foreign corporation,

Defendant.

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**DEFENDANT SAM'S EAST, INC.'S NOTICE OF REMOVAL**

NOW COMES, Defendant, Sam's East, Inc. ("Defendant Sam's"), by and through its attorneys, Zausmer, P.C., and hereby removes this case from the Genesee County Circuit Court, pursuant to 28 U.S.C. §§1441(a) and 1446(a), for the reason that diversity of citizenship exists between the Plaintiff, Cleopatra Thompson ("Plaintiff"), a citizen and resident of Genesee County, Michigan;

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Defendant Nestlé is a Connecticut Corporation with its principal place of business in Stamford, Connecticut; and Defendant Sam's is a corporation organized under the laws of the State of Arkansas, with its principal place of business in Bentonville, Arkansas. Service has been effectuated upon Plaintiff, and in support of its Notice of Removal of this action, Defendant Sam's states the following:

1. This action is pending in the Circuit Court for the County of Genesee in the State of Michigan. The Complaint was filed with the Circuit Court on or around April 1, 2021. (See Plaintiff's Complaint, attached as **Exhibit "A"**.)
2. Defendant Sam's was served with Plaintiff's Summons and Complaint by Certified Mail on April 8, 2021. (See Service of Process Transmittal Form, attached as **Exhibit "B"**).
3. This Notice of Removal is filed within thirty (30) days after Defendant was served with the Summons and Complaint, in compliance with 28 U.S.C. §1446(b). Pursuant to 28 U.S.C. §1446(a), a copy of the Complaint is attached as **Exhibit "A"**.
4. This Court has jurisdiction over this action, pursuant to 28 U.S.C. §1332. Jurisdiction exists because the parties are respectively citizens of different states and the amount in controversy alleged in the Complaint, exclusive of costs, allegedly exceeds Seventy-Five Thousand and 00/100 (\$75,000.00) Dollars.

- A. Based on the allegations in the Complaint, Plaintiff is a citizen of the State of Michigan and resides in the County of Genesee. (See Plaintiff's Complaint at Paragraph One, attached as **Exhibit "A"**.)
- B. Nestlé is a Connecticut corporation with its principal place of business located at 900 Ling Ridge Road, #2 in Stamford, Connecticut 06902. Nestlé is not a citizen of the State of Michigan.
- C. Defendant, Sam's East, Inc., is a corporation organized under the laws of the State of Arkansas, with its principal place of business in Bentonville, Arkansas. Sam's is not a citizen of the State of Michigan and is not a citizen of the State of Connecticut. In view of the above, complete diversity exists among the parties.
- D. According to the allegations in Plaintiff's Complaint, the amount in controversy, exclusive of interest and costs, is in excess of Seventy-Five Thousand and 00/100 (\$75,000.00) Dollars. Specifically, Plaintiff alleges, *inter alia*, in her Complaint, that she sustained serious and disabling injuries, including, but not limited to:
  - i. Acute pharyngitis;
  - ii. Past, present and future physical pain and suffering;
  - iii. Mental anguish, fright and shock;
  - iv. Denial of social pleasures and enjoyment;
  - v. Embarrassment, humiliation and mortification; and
  - vi. Past and future medical bills.

(See Plaintiff's Complaint at Paragraphs 22 and 23, attached as **Exhibit "A"**.)

- D. Additionally, Defendant Sam's requested that Plaintiff cap her alleged damages claim at Seventy-Five Thousand and 00/100 (\$75,000.00)

Dollars or less. (See Correspondence to Plaintiff's Attorney, dated April 19, 2021, attached as **Exhibit "C"**.) However, Plaintiff declined to cap her alleged damages claim because she believes, at this juncture, her alleged damages are in excess of Seventy-Five Thousand and 00/100 (\$75,000.00) Dollars. (See Email from Plaintiff's Attorney, dated April 19, 2021, attached as **Exhibit "D"**.)

5. For purposes of diversity of jurisdiction, a corporation is a citizen of "any State by which it has been incorporated and of the State where it has its principal place of business ..." See *Delphi Automotive Systems, LLC v. Segway Inc.*, 519 F.Supp.2d 662, 665 (E.D. Mich. 2007).

6. In view of the above, there is complete diversity of citizenship among the parties.

7. Accordingly, based on the information known to date, this action may be removed from State Court to Federal Court, pursuant to 27 U.S.C. §§1332 and 1446(b). Defendant Sam's will file a copy of this Notice of Removal with the Clerk of the Circuit Court for the County of Genesee in the State of Michigan. Further, Defendant Sam's will serve copies of this Notice on Counsel of record for Plaintiff.

Respectfully Submitted,

ZAUSMER, P.C.

/s/ Nicole M. Wright

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Dated: May 7, 2021

### **CERTIFICATE OF SERVICE**

I hereby certify that on **May 7, 2021**, I electronically filed the foregoing paper with the Clerk of the Court, using the ECF system and copies of such documents were served upon the following individual by U.S. Mail:

Thomas W. Waun, Esq.  
Michael A. Kowalko, Esq.  
Johnson Law PLC  
Capitol Theater Building  
140 E. 2<sup>nd</sup> St., Suite 201  
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/s/ Nicole M. Wright

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